

**REMARKS**

In the November 14, 2006 Office Action, claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite, claims 1, 2, 5-9, 11, 12 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,355,549 to Steinberg et al., claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Steinberg et al., and claims 3, 4 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Steinberg et al. and further in view of U.S. Patent No. 2,640,676.

By the present amendment, claims 1, 7, 9 and 13 are amended, and claim 8 is canceled. That leaves claims 1-7 and 9-14 pending in the application with claims 1 and 7 being independent. The rejection over prior art is respectfully traversed. In summary, Steinberg et al., either alone or in combination with other prior art, fails to disclose, teach, suggest or render obvious an airflow diverter that includes a housing with first, second, and third openings, and a rotary knob wherein the rotary knob turns with respect to the common central axis of the housing, the first opening and the rotary knob, as recited in amended independent claims 1 and 7. Each rejection is addressed in detail below.

**Claim Rejections - 35 U.S.C. § 112**

Claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In response, claim 1 is amended to clarify that the claim is directed to an “airflow diverter” and not to a vacuum cleaner.

Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, in view of the amendments to independent claim 1.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 2, 5-9, 11, 12 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Steinberg et al. However, Steinberg et al. fails to disclose all of the claim limitations of independent claims 1 and 7, as amended.

Independent claims 1 and 7 are amended to clarify that the housing, the first opening, and the rotary knob of the diverter are co-axial such that they define the same or common central axis, and that the rotary knob rotates with respect to that common axis. In contrast, the diverter valve 50 of Steinberg et al. includes a knob that is transverse to the housing 70 of the valve. More specifically, the knob, including outward panel 52 and interior panel 58, is received within the housing 70 of the diverter in a transverse orientation with respect to the housing openings 80, 81, and 82. Therefore, the knob of Steinberg et al. is not co-axial with the housing 70 or any of its openings including the first opening 80, as recited in independent claims 1 and 7.

Moreover, the knob of valve 50 of Steinberg et al. rotates with respect to post 78 of the housing 70 which is transverse to the common axis defined by the first opening 80 and the housing 70, as seen in Figs. 5-8. Thus, the knob of valve 50 of Steinberg et al. does not rotate about the central common axis defined by the housing and the first opening, as recited in the claimed invention.

Anticipation requires that every limitation of a claim must identically appear in a prior art reference. See *Gechter v. Davidson*, 43 U.S.P.Q. 2d 1030, 1032 (Fed. Cir. 1997). It is clear that the limitation of a rotary knob that rotates about the central common axis defined by the housing, first opening and the knob itself does not identically appear in Steinberg et al.

Absence from the prior art reference of any claimed element negates anticipation. See *Rowe v. Dror*, 42 U.S.P.Q.2d 1550, 1553 (Fed. Cir. 1997).

Accordingly, Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) in view of the amendments to independent claims 1 and 7.

Dependent claims 2-6, and 9-14 are also allowable for the same reasons discussed above. Moreover, those claims recite additional features not found in the prior art.

#### Claim Rejections - 35 U.S.C. § 103

Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Steinberg et al. As discussed above, Steinberg et al. fails to disclose all of the claim limitations of independent claim 7, particularly a housing, a first opening, and a rotary knob being co-axial and the knob turning with respect to the central common axis thereof. Thus, a prima facie case of obviousness has not been established with respect to dependent claim 13. Therefore, Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) of claim 13.

Claims 3, 4 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Steinberg et al. in view of Habgood. As outlined above, Steinberg et al. fails to disclose all of the claim limitations of independent claims 1 and 7, as amended.

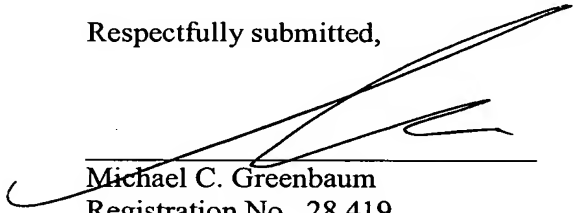
Moreover, Habgood fails to cure the deficiencies of Steinberg et al. Like Steinberg et al., Habgood fails to disclose a rotary knob that turns with respect to the central common axis defined by the co-axial housing, first opening and knob itself. Instead, Habgood teaches a valve that includes a rotary control member 6 and inlet-outlet extensions 3, 4 and 5 wherein member 6 rotates with respect to an axis transverse to each of the inlet-outlet extensions 3, 4 and 5. Therefore, even assuming Steinberg et al. and Habgood could be combined, such a combination fails to disclose or render obvious all of the claim limitations of independent

claims 1 and 7 as amended. Accordingly, a prima facie case of obviousness has not been established with respect to dependent claims 3, 4 and 10. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection of claims 3, 4 and 10 under 35 U.S.C. § 103(a).

In view of the foregoing, Applicant believes claims 1-7 and 9-14 are in condition for allowance. Prompt and favorable treatment is respectfully solicited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (116511-00134). Any fees due are authorized above.

Respectfully submitted,



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